

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

CORNELL SMITH,

Petitioner,
vs.

CRIMINAL CASE NO. 04-80857
CIVIL CASE NO. 07-11145
HON. LAWRENCE P. ZATKOFF
MAGISTRATE JUDGE DONALD A. SCHEER

UNITED STATES OF AMERICA,

Respondent.

ORDER DENYING PETITIONER'S MOTION FOR RECONSIDERATION

This matter comes before the Court on Petitioner's Motion for Reconsideration, filed on March 11, 2008 [dkt 302]. Petitioner challenges the Court's February 8, 2008, Opinion and Order adopting Magistrate Scheer's Report and Recommendation and denying Petitioner's Motion to Vacate, Set Aside, or Correct Sentence. Pursuant to E.D. Mich. L.R. 7.1(g)(2), no response is permitted.

Local Rule 7.1(g)(3) governs motions for reconsideration, stating that "the court will not grant motions for rehearing or reconsideration that merely present the same issues ruled upon by the court, either expressly or by reasonable implication." E.D. Mich. L.R. 7.1(g)(3). The same subsection further states, "the movant must not only demonstrate a palpable defect by which the court and the parties have been misled but also show that correcting the defect will result in a different disposition of the case." *Id.*

Petitioner alleges that his Reply to Response [dkt 301] was filed in a timely fashion on December 29, 2007, but, for some unknown reason, it was not delivered to the Court. The Court finds Petitioner's explanation satisfactory and accepts his Reply to Response as timely filed. Nonetheless, after reviewing Petitioner's Reply and the case file, the Court finds that Petitioner

raises the same issues that were considered either directly or by reasonable implication in Magistrate Scheer's Report and Recommendation that the Court adopted on February 8, 2008. Further, Petitioner does not allege any palpable defects in the Court's decision. Therefore, Petitioner's Motion for Reconsideration is HEREBY DENIED.

IT IS SO ORDERED.

s/Lawrence P. Zatkoff
LAWRENCE P. ZATKOFF
UNITED STATES DISTRICT JUDGE

Dated: March 19, 2008

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of this Order was served upon the attorneys of record by electronic or U.S. mail on March 19, 2008.

s/Marie E. Verlinde
Case Manager
(810) 984-3290